

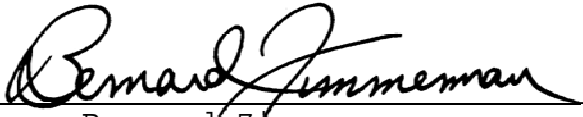
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, et al.,)
)
Plaintiff(s),) No. C06-7339 SBA (BZ)
)
v.) **ORDER COMPELLING PRODUCTION**
) **OF DOCUMENTS**
)
K-M INDUSTRIES HOLDING CO.,)
et al.,)
)
Defendant(s).)
)
)
)
)
)

After reviewing Documents Nos. 2 and 4 *in camera* and the parties' briefs, defendants are **ORDERED** to produce these documents to plaintiffs for the purpose of this litigation only, by no later than **December 14, 2007**.

Although the documents are protected by the attorney-client privilege, defendants cannot assert the privilege against plaintiffs since the "fiduciary exception" applies inasmuch as plaintiff ESOP beneficiaries are the "real clients" and hold the privilege for these documents. See U.S. v. Mett, 178 F.3d 1058, 1063-64 (9th Cir. 1999).

Dated: December 3, 2007


Bernard Zimmerman
United States Magistrate Judge